

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 07-08-04.

The IRO reviewed joint mobilization, ultrasound, therapeutic exercises, office visits, massage, aquatic therapy and psychiatric interview rendered from 09-11-03 through 11-25-03 that were denied based "U".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the **majority** of the issues of medical necessity. Therefore, upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved. This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 08-04-04, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14-days of the requestor's receipt of the Notice.

Neither the requestor nor the respondent submitted explanations of benefits. The requestor submitted convincing evidence the carrier was in receipt of the provider's request for explanations of benefits in accordance with Rule 133.307(e)(2)(B). Therefore, CPT code 99080-73 date of service 08-20-03, CPT code 99204 date of service 08-20-03, CPT code 97750-FC date of service 08-21-03 and CPT code 97265 dates of service 09-15-03, 09-22-03 and 09-24-03 are reviewed according to the Medical Fee Guideline effective 08-01-03. Relevant medical documentation supports delivery of service. Reimbursement in the amount of \$15.00 (99080-73), \$153.53 (99204), \$534.56 (97750-FC) and \$92.70 (97265) is recommended. Total reimbursement recommended for **fee** issues is **\$795.79**.

This Findings and Decision is hereby issued this 3rd day of September 2004.

Debra L. Hewitt
Medical Dispute Resolution Officer
Medical Review Division

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20-days of receipt of this order. This Decision is applicable for dates of service 08-20-03 through 11-25-03 in this dispute.

This Order is hereby issued this 3rd day of September 2004.

Roy Lewis, Supervisor
Medical Dispute Resolution
Medical Review Division

RL/dlh

August 31, 2004

Texas Workers' Compensation Commission
Medical Dispute Resolution
Fax: (512) 804-4868

CORRECTED REPORT **Corrected ending date of dates in dispute.**

Re: Medical Dispute Resolution
MDR #: M5-04-3850-01
TWCC#:
Injured Employee:
DOI:
SS#:
IRO Certificate No.: 5055

Dear

___ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, ___ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

I am the Secretary and General Counsel of ____ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Information and medical records pertinent to this medical dispute were requested from the Requestor and every named provider of care, as well as from the Respondent. The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine and is currently on the TWCC Approved Doctor List.

REVIEWER'S REPORT

Information Provided for Review:

TWCC-60, Table of Disputed Services, EOB's

Information provided by Requestor: letter of medical necessity, office notes, physical therapy notes, FCE and radiology report.

Information provided by Respondent: correspondence, designed doctor exam, office notes and evaluations.

Clinical History:

The records indicate the patient was injured on the job _____. She injured her right shoulder, right elbow, right wrist, right hip, right knee, and her neck. She was seen at a local emergency room, and x-rays were performed of the right arm. She was placed in a long arm splint and referred to an orthopedic specialist.

She was seen by the orthopedic specialist on 7/3/03. She was evaluated and additional x-rays were taken. Medication was prescribed, and she was referred to physical therapy. She was placed off of work. She continued therapy with only minimal results, and additional diagnostic testing in the form of MRI's were ordered.

She requested a change of treating doctors. This was approved, and on 8/20/03, she sought a new treating doctor for initial evaluation and report. In addition to beginning treatment, her treating doctor made several referrals for additional evaluation as well as injection therapy.

Disputed Services:

Joint mobilization (except 09/15, 09/22, 09/24/03), ultrasound, therapeutic exercises, office visits, massage, aquatic therapy and psychiatric interview during the period of 09/11/03 through 11/25/03.

Decision:

The reviewer partially agrees with the determination of the insurance carrier as follows:

Not Medically Necessary:

- joint mobilization on 09/11/03
- ultrasound during period in dispute
- massage during period in dispute
- aquatic therapy during period in dispute

Medically Necessary:

- office visits during period in dispute
- therapeutic exercises during period in dispute
- psychiatric interview during period in dispute.

Rationale:

National treatment guidelines allow for this type of treatment for these types of injuries. However, the guidelines do not allow for passive modalities over 2 months after her initial injury. It is obvious by the records that this patient has several injured areas and needed treatment for an extended period of time beyond what would normally be anticipated for a common strain/sprain injury. Chiropractic care was performed in conjunction with additional passive/active therapy as well as injection therapy. Since the patient had already had months of therapy prior to dates of denial of services, there is no clinical justification for the use of joint mobilization, ultrasound, massage, or aquatic therapy.

Joint mobilization and manual therapy have a similar therapeutic effect value. It is not usual or medically necessary for these procedures to be performed in conjunction with an office visit on the same date. It is widely accepted throughout the medical and chiropractic community that an office visit will not only include the evaluation and management of the patient but also treatment in the nature of joint mobilization and/or manual therapy.

With this in mind, all office visits, therapeutic exercises, as well as a psychiatric interview during the period of 9/11/03 through 11/25/03 were in fact, reasonable, usual, customary, and medically necessary for the treatment of this patient's on the job injuries. Joint mobilization on 9/11/03 as well as all ultrasound, massage, and aquatic therapy performed during the period of 9/11/03 through 11/25/03 that have been denied were not reasonable, usual, customary, or medically necessary for the treatment of this claimant's on the job injury.

Sincerely,